

JUL 24 2009

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JOHN F. CORCORAN, CLERK  
BY: *[Signature]*  
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DARYL EDWARD FITZGERALD,	)	Civil Action No. 7:09-cv-00052
Plaintiff,	)	
	)	
v.	)	<u>ORDER</u>
	)	
VIRGINIA DEPARTMENT OF	)	
CORRECTIONS, <u>et al.</u> ,	)	By: Hon. James C. Turk
Defendants.	)	Senior United States District Judge

In accordance with the written memorandum opinion entered this day, it is hereby

**ORDERED**

that plaintiff's motion to amend (docket #7) is **GRANTED**; Gene Johnson and James Sisk are **ADDED** as defendants; the Virginia Department of Corrections is **TERMINATED** as a defendant; the complaint is **DISMISSED** for failing to state a claim upon which relief may be granted, pursuant to 28 U.S.C. § 1915A(b)(1); and the action is **STRICKEN** from the active docket of the court.

The Clerk is directed to send copies of this order and the accompanying memorandum opinion to the plaintiff.

ENTER: This 24<sup>th</sup> day of July, 2009.

*[Signature]*  
Senior United States District Judge